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8 Attorneys for Plaintiffs

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11	SIERRA CLUB, a non-profit California	)	
12	corporation; LARRY E. MOSS, CLYDE	)	
	MARTIN LITTON, ALBERT J. HILL,	)	
13	ELLEN NADEAN BISSIRI, DAVID GREEN,	)	
	JEAN KOCH, LYAL D. ASAY, LESLIE	)	
14	AVERY and RONALD KENNEDY, individuals,	)	
	and MINERAL KING DISTRICT ASSOCIATION,	)	
15	an unincorporated association,	)	
		)	
16	Plaintiffs,	)	Civil Action
		)	No. 51464 WTS
17	v.	)	AMENDED COMPLAINT
		)	
18	ROGERS C. B. MORTON, individually and	)	
	as Secretary of the Interior of the	)	
19	United States; JOHN S. McLAUGHLIN,	)	
	individually and as Superintendent	)	
20	of Sequoia National Park; EARL	)	
	BUTZ, individually and as Secretary	)	
21	of Agriculture of the United States;	)	
	DOUGLAS R. LEISZ, individually, and	)	
22	as Regional Forester, Forest Service;	)	
	and M.R. JAMES, individually and as	)	
23	Forest Supervisor of the Sequoia	)	
	National Forest,	)	
24	Defendants.	)	

25
26 JURISDICTION

27 1. This action is brought under 5 U.S. §§701-706
28 (Administrative Procedure Act §10), 28 U.S.C. §1331(a), 28 U.S.C.
29 §1361, and 28 U.S.C. §2201, (Declaratory Judgments Act.)
30 2. The matter in controversy exceeds \$10,000 exclusive
31 of interest and costs and arises under the federal law as here-
32 inafter more fully appears.

1 FIRST CLAIM FOR RELIEF

2 3. Plaintiff Sierra Club is a non-profit corporation
3 organized and operating since 1892 under the laws of the
4 State of California. Its principal office is in San Francisco,
5 California. The membership of the Club is approximately
6 140,000 nationally. Of this number, approximately 82,000
7 members live in California. The largest centers of membership
8 are the San Francisco Bay Area and the Los Angeles Area.
9 Additionally, the Club has chapters with substantial memberships
10 throughout the San Joaquin Valley.

11 The Sierra Club has conducted outings over the years
12 on a regular basis in the Sierra Nevada. In addition, the
13 Sierra Club has carried on a program to acquaint people with
14 the values of the Sierra and to preserve it in National Parks
15 and National Forest Wilderness Areas. In carrying out this
16 program, Sierra Club has conducted, and continues to conduct,
17 substantial activities in and around the Mineral King area.
18 In addition, several of the Club's chapters have conducted
19 and continue to conduct outings in and around Mineral King
20 on a regular basis. In addition, many of the Club's members
21 individually or in informal groups undertake hikes and other
22 trail outings in and around the Mineral King valley and engage
23 in various outdoor recreational activities in and around the
24 valley such as picnicking, hiking, climbing, photography,
25 camping, and family outings. A few of the Club's members own
26 or lease small cabins in the Mineral King area which they use
27 as retreats during the summer season.

28 The aesthetic, environmental, and recreational interests
29 of the Club, its chapters and its members in the Mineral King
30 area, including their enjoyment of the scenery, natural and
31 historic objects and wildlife, would be injured by the
32 conversion of the area into a commercial ski development.

1 Use of the valley itself for the activities would be pre-
2 empted. Development, furthermore, will impair the use and
3 enjoyment of Mineral King as a beginning point for wilderness
4 outings. In addition, with commercial chair and gondola
5 lifts built up the mountainsides, the high country around
6 Mineral King will be overloaded, depriving the Club, its
7 chapters and its members of the wilderness experiences
8 they have enjoyed since the turn of the century.

9 In addition, the Sierra Club has spent and continues to
10 spend substantial time and effort in the conservation of
11 Mineral King and the protection of the ecology of Mineral King
12 and its environs. Over the years the Club has engaged in
13 various campaigns to extend the boundaries of Sequoia National
14 Park to include Mineral King. The early phase of this
15 campaign culminated in 1926 with a compromise Act of Congress
16 designating the area the Sequoia National Game Refuge, 53 Stat.
17 1431, 16 U.S.C. §688. The Club continues to seek to have
18 the area added to the National Park. Mass development would
19 obviously destroy the park qualities of the area and, in so
20 doing, destroy the Club's conservational, environmental, and
21 ecological interests in Mineral King. Thus, the ski develop-
22 ment would destroy the scenic, natural wildlife and historic
23 aspects of the Mineral King area.

24 3a. Plaintiffs LARRY E. MOSS, CLYDE MARTIN LITTON,
25 ALBERT J. HILL, ELLEN NADEAN BISSIRI, DAVID GREEN, JEAN
26 KOCH, LYAL D. ASAY, LESLIE AVERY, and RONALD KENNEDY are individ-
27 uals who use the Mineral King valley either as a summer
28 residence or as a parkland and recreation area. Plaintiff
29 MINERAL KING DISTRICT ASSOCIATION is an unincorporated
30 association of cabin owners in the Mineral King valley and
31 vicinity. The members of the Association use their cabins
32 as summer residences or as weekend or vacation retreats. All

1 the above named plaintiffs have been active for several years
2 in efforts to preserve and protect Mineral King from a ski
3 development and to preserve the area in its present condition.

4 4. (a) Defendant ROGERS C. B. MORTON (hereinafter

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1 "MORTON") is Secretary of the Interior of the United States
2 and the matters hereinafter referred to as pertaining to
3 "Interior" or the "National Park Service" are within the
4 "Department of Interior" of which he is the chief officer.
5 His predecessor in office was Stewart L. Udall (hereinafter
6 "Udall").

7 (b) Defendant JOHN S. McLAUGHLIN (hereinafter
8 "McLAUGHLIN") is Superintendent of Sequoia National Park.

9 (c) Defendant EARL BUTZ (hereinafter "BUTZ") is
10 Secretary of Agriculture of the United States, and the matters
11 hereinafter referred to as pertaining to "Agriculture" or the
12 "National Forest Service" are within the "Department of
13 Agriculture" of which he is the chief officer. His predecessor
14 in office was Orville W. Freeman (hereinafter "Freeman").

15 (d) Defendant DOUGLAS LIESZ (hereinafter "LIESZ")
16 is Regional Forester of the Forest Service for the region
17 which includes the Sequoia National Game Refuge.

18 (e) Defendant M. R. JAMES (hereinafter "JAMES")
19 is the Forest Supervisor in the National Forest Service in
20 charge of the Sequoia National Forest.

21 5. In or about February 1965, the National Forest
22 Service (hereinafter "Forest Service") solicited bids for
23 the construction and operation of a year-round commercial-
24 recreational resort in and near the Mineral King valley (herein-
25 after "Mineral King") which is located in the Sequoia National
26 Game Refuge of California. The game refuge is more fully
27 described in the Act of July 3, 1926 (P.L. 69-465, 26 Stat.
28 Ch. 744, §6).

29 6. In or about January 1966, the Forest Service granted
30 to Walt Disney Productions, Inc. (hereinafter "Developer") a
31 preliminary permit authorizing it to make surveys and prepare
32 plans for development of Mineral King.

1 7. On or about 21 January, 1969, the Forest Service
2 approved the proposed plan of Developer for the commercial-
3 recreational development of Mineral King. Plaintiff is
4 informed and believes and based upon such information and
5 belief alleges that under the approved plan the development
6 will have at least the following features:

7 (a) An "alpine village" and associated structures
8 permanent in nature including parking structure, restaurants,
9 lodging facilities, sewage treatment facilities, swimming and
10 ice skating facilities which will physically occupy and affect
11 areas far in excess of 80 acres of land;

12 (b) Ski-lifts, cleared slopes, lift lines, trails,
13 roads, a cog-assisted railroad, water and stream control
14 features, avalanche dams and other recreational "improvements"
15 throughout 13,000 acres directly affecting by actual construction
16 and development an area occupying nearly 400 acres of land;

17 (c) The year-long use of the resort will include
18 the presence in said area of an estimated 1,200 vehicles
19 per hour each way on an access road which is proposed to cross
20 Sequoia National Park to the development, 3,600 parked vehicles,
21 the lodging of 3,310 transient guests per night, up to 8,500
22 skiers per day, the permanent housing of 700 or more employees
23 and 986,000 or more total visitors per year as early as 1978;
24 and

25 (d) The exact nature of other details is not yet
26 known to plaintiff, which prays leave to insert them when
27 discovered.

28 8. The Forest Service has announced and plaintiffs allege
29 on information and belief that defendants BUTZ, LIESZ and JAMES
30 intend to issue interim special use permits for the actual
31 commencement of construction and operation of the described
32 development. In the meantime, the Forest Service has issued

1 a permit under which employees of Developer continue to make
2 studies and arrangements for the construction and operation
3 of the commercial-recreational development. Also in the
4 meantime, the Forest Service continues to assign personnel
5 and expend public monies in making studies and other preparations
6 for the eventual operation and administration of the Mineral
7 King development.

8 9. The approval of the described plans and the
9 impending issuance of permits to Developer for construction
10 and operation in accordance with those plans and the acts of
11 defendants BUTZ, LIESZ and JAMES in association therewith are
12 in excess of statutory jurisdiction, authority and limitations,
13 are not in accordance with law, are arbitrary, capricious and
14 constitute an abuse of discretion in that (among other things)
15 the described acts are:

16 (a) in violation of the provisions of the Act of
17 March 4, 1915, as amended July 28, 1956 (38 Stat. 1101, 70 Stat.
18 708; 16 U.S.C. §497) which limits the size, terms and manner
19 of occupation of lands for resorts and associated facilities
20 in the national forests and which is far exceeded by the
21 subject development;

22 (b) in violation of the provisions of the Act of
23 June 4, 1897, as amended (30 Stat. 35, 33 Stat. 628, 76 Stat.
24 1157 and 78 Stat. 745; 16 U.S.C. §551) regarding the permit
25 power of the Secretary of Agriculture, which has been and will
26 be exceeded;

27 (c) beyond the jurisdiction of the said defendants
28 in that responsibility for conservation of game, birds and
29 wildlife in Sequoia National Game Refuge and other such
30 sanctuaries was transferred to the Secretary of the Interior
31 by the Reorganization Act of 1939 (53 Stat. 1431, Ch. 193, §4;
32 53 Stat. 813);

1 (d) in violation of the provisions of the Act of
2 July 3, 1926 (P.L. 69-465, 1926 Stats. Ch. 744, §6) establishing
3 the Sequoia National Game Refuge whose purposes are contravened
4 by the subject development;

5 (e) in violation of Forest Service rules and
6 regulations, and in violation of applicable principles of
7 administrative law, in that it has declined and refused to hold
8 public hearings on the question of whether Mineral King should
9 be developed, or how it should be developed for commercial-
10 recreational purposes or for any other purpose; and

11 (f) in violation of Forest Service rules and
12 regulations, and in violation of fundamental principles of
13 administrative law in that it has acted without due
14 consideration of the factors which it is required to consider
15 in reaching a decision on whether Mineral King should be
16 developed, or how it should be developed for recreational
17 purposes.

18 10. There exists a present controversy between plaintiffs
19 and defendants with respect to the matters hereinbefore set
20 forth.

21 11. Defendants have acted, are acting and threaten to
22 continue to act in violation of the law, as hereinbefore set
23 forth. Unless restrained, they will cause, or permit to be
24 caused, damage to Mineral King which will be irreparable, in
25 part, for many human generations, and irreparable, in part, for
26 all eternity.

27 12. There are no administrative remedies available to
28 plaintiffs, and plaintiffs have no adequate remedy at law.

29 WHEREFORE, plaintiffs pray as hereinafter set forth.

30 SECOND CLAIM FOR RELIEF

31 13. Paragraphs 1-9 of the First Claim for Relief are
32 incorporated herein by reference.

1 14. In order to provide access to the proposed commercial-
2 recreational development at Mineral King, the Forest Service
3 sought permission from the National Park Service and the
4 Secretary of Interior for the construction of a highway, 9
5 miles of which would cross Sequoia National Park.

6 15. In or about December 1967, Secretary Udall granted
7 formal approval of the routing of that highway (which would
8 be constructed and maintained by the State of California.)
9 Approval for a right-of-way, construction and operation was
10 expressly left open pending further study concerning the
11 design standards of the highway. Plaintiffs allege on information
12 and belief, however, that agreement on design standards is
13 near and upon such agreement, defendants MORTON and McLAUGHLIN
14 will issue their approval for a right-of-way, construction and
15 operation of the highway across Sequoia National Park and that
16 the State of California will let contracts for the commencement
17 of construction upon issuance of that approval.

18 16. Plaintiffs are informed and believe and based upon
19 such information and belief allege that the purpose of the
20 proposed highway would be simply to provide a means to cross
21 the Sequoia National Park and serve the Mineral King development
22 rather than to serve any fundamental purpose of the Park.
23 Plaintiffs further allege on information and belief that the
24 construction of said road in Sequoia National Park would
25 destroy or otherwise adversely affect the scenery, natural
26 and historic objects and wildlife of the park and would impair
27 the enjoyment of the park for future generations.

28 17. The approval of the routing of said access road
29 and the impending issuance of authorization for rights-of-way,
30 construction, and operation of said road and the acts of
31 defendants MORTON and McLAUGHLIN in connection therewith are
32 in excess of their statutory jurisdiction, authority and

1 limitations, are not in accordance with law, are arbitrary,
2 capricious and constitute an abuse of discretion in that
3 (among other things) the described acts are:

4 (a) in violation of the provisions of the Act of
5 August 25, 1916, as amended (39 Stat. 535, as amended; 16
6 U.S.C. §1) which prohibits uses of the national parks which
7 do not conform to the fundamental purposes of said parks;

8 (b) in violation of the provisions of the Act of
9 September 25, 1890 (26 Stat. 478, 16 U.S.C. §41 and §43),
10 establishing Sequoia National Park as a public park and
11 imposing the duty upon the Secretary for the "preservation
12 from injury of all timber, natural curiosities or wonders
13 within said park, and their retention in their natural conditions";

14 (c) in violation of regulations requiring a public
15 hearing with respect both to the general corridor to be occupied
16 by the proposed road and to its design, as set forth in 34
17 Fed. Reg. 1405 (January 29, 1969). Purported repeal of those
18 regulations was not in accordance with 5 U.S.C. §553(b) and
19 therefore is without legal effect. Nevertheless, unless
20 restrained, defendants MORTON and McLAUGHLIN threaten to
21 proceed to permit the proposed road to be constructed across
22 Sequoia National Park without first holding the public hearing
23 required by the aforesaid regulations; and

24 (d) in violation of Park Service rules and
25 regulations, and fundamental principles of administrative
26 law, in that defendants MORTON and McLAUGHLIN have acted
27 without due consideration of the factors which they are
28 required by law to consider in reaching a decision upon
29 whether an enlarged road across Sequoia National Park should
30 be permitted for purposes not benefiting that Park and, if so,
31 what type of road should be permitted.

32 18. There exists a present controversy between

1 plaintiffs and defendants with respect to the matters herein-
2 before set forth.

3 19. Defendants MORTON and McLAUGHLIN have acted, are
4 acting, and threaten to continue to act in violation of the
5 law, as hereinabove set forth. Unless restrained, they will
6 cause or permit to be caused, damage to Sequoia National Park
7 which will be irreparable, in part, for many human generations,
8 and irreparable, in part, for all eternity.

9 20. There are no administrative remedies available to
10 plaintiffs, and plaintiffs have no adequate remedy at law.

11 WHEREFORE, plaintiffs pray as hereinafter set forth.

12 THIRD CLAIM FOR RELIEF

13 21. Paragraphs 1-20 of this complaint are incorporated
14 herein by reference.

15 22. The proposed ski development of Walt Disney
16 Productions will have a permanent and substantial detrimental
17 impact on the Mineral King area including the scenery, natural
18 and historic objects, wildlife, soil, fish, water, and
19 vegetation.

20 23. The National Environmental Policy Act (NEPA) became
21 law on January 1, 1970. NEPA gives Congressional recognition
22 to the profound impact of man's activity on the natural
23 environment, citing resource exploitation as one of those
24 impacts, and recognizes further the critical importance of
25 "maintaining environmental quality to the overall welfare
26 and development of man." (NEPA §101(a), 42 U.S.C. 4331(a)
27 [1969])). It declares that

28 it is the continuing policy of the Federal
29 Government, in cooperation with State and
30 local governments, and other concerned
31 public and private organizations, to use
32 all practicable means and measures, including
financial and technical assistance, in a
manner calculated to foster and promote the
general welfare, to create and maintain
conditions under which man and nature can

1 exist in productive harmony, and
2 fulfill the social, economic, and
3 other requirements of present and
4 future generations of Americans.

5 24. Section 101(b) of NEPA sets out the Federal
6 Government's "continuing responsibility . . . to use all
7 practicable means, consistent with other essential considerations
8 of national policy, to improve and coordinate Federal plans,
9 functions, programs, and resources to the end that the nation
10 may --

- 11 (1) Fulfill the responsibilities of each
12 generation as trustee of the environ-
13 ment for succeeding generations;
- 14 (2) Assure for all Americans safe, health-
15 ful, productive, and aesthetically and
16 culturally pleasing surroundings;
- 17 (3) Attain the widest range of beneficial
18 uses of the environment without
19 degradation, risk to health or safety,
20 or other undesirable and unintended con-
21 sequences;
- 22 (4) Preserve important historic, cultural,
23 and natural aspects of our national
24 heritage, and maintain, wherever possible,
25 an environment which supports diversity,
26 and variety of individual choice."

27 25. Section 102(1) of NEPA provides that "The Congress
28 authorizes and directs that, to the fullest extent possible:

- 29 (1) The policies, regulations and public laws of the United
30 States shall be . . . administered in accordance with the
31 policies set forth in this Act."

32 26. To effectuate these policies, §102(2)(C) of the
Act requires that all agencies of the Federal Government

include in every recommendation or report on
proposals for legislation and other major
Federal actions significantly affecting the
quality of the human environment, a detailed
statement by the responsible official on --

- (i) the environmental impact of the
proposed action,
- (ii) any adverse environmental effects
which cannot be avoided should the

1 proposal be implemented,

2 (iii) alternatives to the proposed
3 action,

4 (iv) the relationship between local
5 short-term uses of man's environ-
6 ment and the maintenance and
7 enhancement of long-term produc-
8 tivity, and

9 (v) any irreversible and irretrievable
10 commitments of resources which
11 would be involved in the proposed
12 action should it be implemented.

13 Prior to making any detailed statement,
14 the responsible Federal official shall
15 consult with and obtain the comments of
16 any Federal agency which had juris-
17 diction by law or special expertise
18 with respect to any environmental
19 impact involved. Copies of such
20 statement and the comments and
21 views of the appropriate Federal,
22 State, and local agencies, which are
23 authorized to develop and enforce
24 environmental standards, shall be
25 made available to the President, the
26 Council on Environmental Quality and
27 to the public as provided by §552 of title
28 5, United States Code, and shall
29 accompany the proposal through the
30 existing agency review processes;

31 27. Section 102(2)(D) provides that each agency shall

32 study, develop, and describe appropriate
alternatives to recommend courses of
action in any proposal which involves
unresolved conflicts concerning alter-
native uses of available resources;

28. Forest Service Manual Chapter 1940 entitled

"Environmental Statement" was distributed by the Chief on
July 13, 1971. The Regulation specifically implements NEPA,
Executive Order 11514, the Council on Environmental Quality's
"Revised Guidelines for Statements on the Proposed Federal
Action affecting the Environment," 36 Fed. Reg. 7724 (April 23,
1971), Office of Management and Budget Bulletin No. 71-3 (1970),
and the Secretary of Agriculture's Memorandum No. 1995 (1971).
Section 1941.22 of the Chief's Directive provides as follows:

1 Plans, Programs, and Major Projects.
2 Environmental Statements will be pre-
3 pared on major proposed plans, programs,
4 and major projects directly undertaken
5 by the Forest Service, or supported in
6 whole or in part through land use per-
7 mits, leases, contracts, grants, coopera-
8 tive agreements, subsidies, technical
9 assistance or granting of rights.

6 §1941.22(2)(f) provides that "The need for Environmental State-
7 ments should be seriously considered for ... major public service
8 developments" and lists "winter sport sites" as an example.

9 29. The provisions of NEPA apply to the permits,
10 rights-of-way and approvals necessary to allow the construction
11 of the ski development of Walt Disney Productions, Inc. at
12 Mineral King.

13 30. Defendants have not fulfilled their responsibilities
14 under §§101(b) and 102(1) of NEPA to prevent the degradation
15 of the Mineral King area and to preserve the natural environ-
16 ment of the area as a wildlife refuge.

17 31. Defendants have also failed to comply with the
18 procedural requirements of §102(2) of NEPA. Among other
19 things, they have failed to prepare and circulate for public
20 comment an Environmental Impact Statement pursuant to §102(2)(C).

21 32. Among other things, defendants have failed (a) to
22 "consult with and obtain comments" from any Federal agency with
23 regard to the required detailed statement, (b) to make copies
24 of the required detailed statement available to the President,
25 the Council on Environmental Quality and to the public pursuant
26 to 5 U.S.C. §552, and (c) to have the required detailed
27 statement accompany the proposed project through the existing
28 agency review process.

29 33. Defendants have also, among other things, failed
30 to study, develop and describe appropriate alternatives to
31 the areas selected for development as required by §102(2)(D).

32 WHEREFORE, plaintiffs pray as hereinafter set forth.

PRAYER

WHEREFORE, plaintiffs pray judgment as follows:

1. Against defendants BUTZ, LIESZ and JAMES and each of them, for a judgment declaring that the approval given on or about 21 January, 1969, of the Walt Disney Productions, Inc. Mineral King Development Plan by defendants BUTZ, LIESZ and JAMES, and each of them, and the threatened issuance of permits for construction and operation in furtherance thereof is in violation of law and therefore null and void, to wit, in violation of each and all of the following: 16 U.S.C. §497; 16 U.S.C. §551; P.L. 193, §4 (the Reorganization Act of 1939); the Act of July 3, 1926, establishing the Sequoia National Game Refuge; and fundamental principles and requirements of administrative law.

2. For both a preliminary and permanent injunction enjoining defendants BUTZ, LIESZ and JAMES, and each of them and their successors in office and the respective employees, servants, attorneys and agents thereof, and all other persons, in active concert or participation with them, from granting any permits, rights of way, approvals, or taking any action whatsoever toward the implementation of said Development Plan above referred to or any other development of like or similar nature thereto.

3. Against defendants MORTON and McLAUGHLIN, and each of them, for a judgment declaring that the aforementioned approval of the routing of a highway across and through the Sequoia National Park by defendants MORTON and McLAUGHLIN, and each of them, and/or their predecessors in office, and the threatened issuance of approvals for rights of way, construction and operation of a highway across and through said Sequoia National Park is in violation of law and therefore null and void, to wit, in violation of each and all of the

1 following: 16 U.S.C. §1; 16 U.S.C. §§41, 43, 34 Fed. Reg.1405
2 (January 29, 1969); Park Service rules and regulations; and
3 fundamental principles and requirements of administrative law.

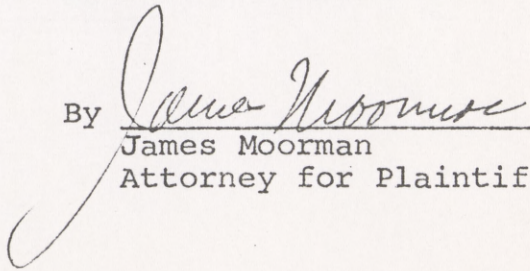
4 4. For both a preliminary and permanent injunction
5 enjoining defendants MORTON and McLAUGHLIN and each of them,
6 their successors in office and the respective employees,
7 servants, attorneys and agents thereof and all other persons,
8 in active concert or participation with them, from taking
9 any action whatsoever toward authorizing or approving (i) design
10 standards or rights of way of said highway or any other of
11 similar or like purpose; (ii) construction or maintenance of
12 said highway or any other of similar or like purpose by the
13 State of California or any other entity or person.

14 4a. That this Court enter judgment declaring any
15 rights-of-way, permits, or approvals for Walt Disney
16 Productions, Inc.'s Mineral King Ski Development to be unlawful
17 and without legal effect unless and until the defendants comply
18 with the National Environmental Policy Act, 42 U.S.C. 4321 (1969),
19 and that the defendants be so ordered and enjoined.

20 5. Grant to plaintiffs such other further relief as to
21 this Court may appear just and proper, including costs and
22 disbursements.

23 Dated at San Francisco, June 2, 1972.

24 JAMES MOORMAN
25 JOHN HOFFMAN
26 BARRY FISHER
LELAND R. SELNA, JR.

27 By 
28 James Moorman
29 Attorney for Plaintiffs

30 ROBERT W. JASPERSON
31 GREGORY ARCHBALD

32 Of Counsel

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIERRA CLUB,

Plaintiff

v.

ROGERS C. B. MORTON, et al.,

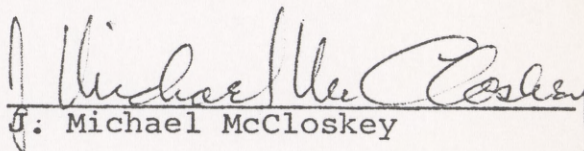
Defendants

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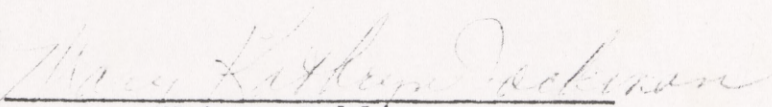
Civil Action
No. 51464

J. MICHAEL McCLOSKEY, being first duly sworn, deposes
and says:

That he resides at Alameda County, California; that he
is the Executive Director of the Sierra Club, a non-profit
California corporation, plaintiff herein; that he has read
the foregoing proposed amendments to Sierra Club's complaint,
and that he is informed and believes the matters therein to
be true and on that ground alleges that the matters stated
therein are true.


J. Michael McCloskey

Subscribed and sworn to before me
this 31st day of May, 1972.


Notary Public

My Commission expires: January 28, 1973

